

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
No. 4:15-CV-98-BO

PATRICK P. STAUDNER, )  
                        )  
                        )  
Plaintiff,         )  
                        )  
                        )  
v.                     )  
                        )  
                        )  
ROBINSON AVIATION, INC.,     )  
PROFESSIONAL AIR TRAFFIC     )  
CONTROLLERS ORGANIZATION,     )  
                        )  
                        )  
Defendants.         )

ORDER

This cause comes before the Court on defendant Robinson Aviation's second motion for summary judgment, which defendant Professional Air Traffic Controllers Organization supports. Plaintiff has responded in opposition to the second motion for summary judgment, Robinson Aviation has replied, and a hearing on the matter was held before the undersigned on July 30, 2019, at Raleigh, North Carolina.<sup>1</sup>

DISCUSSION

The Court presumes a familiarity with the factual background and procedural posture of this case. Robinson Aviation seeks entry of summary judgment in its favor as a matter of law, and argues that, in light of the Fourth Circuit's opinion that the collective bargaining agreement at issue did not require plaintiff to exhaust his contractual remedies, Professional Air Traffic Controllers Organization (PATCO) owed plaintiff no duty of fair representation. Absent a duty owed to

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<sup>1</sup> Robinson Aviation's motion to strike plaintiff's response to PATCO's memorandum in support of Robinson Aviation's second motion for summary judgment is denied. See Local Civil Rule 1.1.

plaintiff by PATCO, plaintiff's hybrid § 301 claim, Robinson Aviation argues, fails. *See* *Thompson v. Aluminum Co. of Am.*, 276 F.3d 651, 656 (4th Cir. 2002).

The Court does not read the Fourth Circuit's opinion to require the conclusion that defendants suggest. Accordingly, the second motion for summary judgment [DE 116] is DENIED. The motion to strike [DE 126] is also DENIED. This matter remains for jury trial to commence August 12, 2019, at Elizabeth City, North Carolina.

SO ORDERED, this 31 day of July 2019.

  
TERRENCE W. BOYLE  
CHIEF UNITED STATES DISTRICT JUDGE